

# **PROJECTING THE AMOUNT OF SEXUAL RECIDIVISM PREVENTED BY THE CHAPTER 980 PROGRAM (WISCONSIN'S CIVIL COMMITMENT FOR SEX OFFENDERS)**

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## **Objective**

Wisconsin's Sexually Violent Persons program (Chapter 980 of the Wisconsin Statutes) was enacted into law in June of 1994. The general intent of Chapter 980 is to protect society from the State's most dangerous sex offenders (i.e., those individuals determined to be much more likely than not to re-offend) through a civil commitment process. Chapter 980 serves to protect society through two general means—Treatment and Incapacitation. (1) It provides an intensive treatment environment for these high-risk offenders designed to reduce their risk for re-offending to a level where it is no longer viewed as substantially probable that they will commit another sexually violent offense. (2) During the period of time that these individuals are held in the secure institution, Chapter 980 serves to virtually eliminate the possibility that they will be able to commit a sexually violent offense.

This note seeks to quantify the incapacitation effect of Chapter 980 by estimating the amount of sexual recidivism that has been prevented to date by the Chapter 980 program. It considers only further offending that has been saved by the additional time these men have been detained.

## **Summary**

To date 285 sexual offenders have been civilly under Wisconsin Statutes Chapter 980. The average time detained so far is a little over six years. It is estimated that this period of additional detention has so far prevented about 425 persons from being victimized by further sexual offending. This estimate covers the time period from the establishment of the program through September 20, 2004.

## **Approach**

Estimates of this kind are produced by combining factual data about committed offenders with assumptions about the implications of these facts for rates of offending. The projections are only as good as the assumptions and data on which they are based. Throughout the paper we have tried to make explicit what assumptions are being made, and how they affect the projection. So far as is possible the assumptions are based on existing research. Nevertheless, research doesn't always provide answers that have the detail or precision that we need for projections, or it is subject to a range of possible interpretations. This paper tries to take a middle road in interpreting research findings and to explain the logic and statistical basis of the projection at each step

## **Calculations**

To date comparatively few patients have been released, thus the reduction in recidivism may be estimated as the amount of recidivism that this population would be

expected to have engaged in had they been returned to the community instead of residing in secure DHFS facilities.

As of September 20<sup>th</sup> 2004, the SVPIS database shows that 285 sexual offenders have been committed under Chapter 980. Once committed, the legal status of these individuals is that of civilly committed patients rather than that of prison inmates. As such they may be held either in a secure in-patient facility or, if the court so orders, placed on Supervised Release. Additionally, the court can order that they be discharged.

While these patients are in a secure DHFS facility their opportunity to commit a sexual offense against a member of the general public is effectively eliminated. For each patient it is possible to determine when he would have been released back into the community had Chapter 980 law not been in operation, and how much additional time he has been in a secure facility as a result of the operation of Chapter 980 law. This information has been extracted from the SVPIS database. The calculations below seek to estimate how much further sexual offending these men would have been expected to engage in if they had been in the community during this time instead being in a secure DHFS facility.

***Assumption 1: Sexual offenders, committed under chapter 980 law, may be treated as equivalent to sexual offenders falling in Static-99's high risk category***

In Wisconsin, both the process of identifying cases for whom civil commitment should be pursued, and the recommendations by State experts as to whether the legal criteria for commitment are met, are strongly influenced by scores on actuarial risk classification instruments. To simplify calculation we have treated all these patients as if they fell into the High-Risk category on Static-99<sup>1</sup>. In fact both evaluators and the courts take into account a variety of factors, including other actuarial instruments and clinical information (such as statements like – “if I am released, I’ll re-offend”). Thus where a committed patient does not fall in the Static-99 High-Risk category, there would typically be other information about him that indicated a comparable level of risk. The advantage of this simplification is that we have actuarial data for Static-99 that allows us to state the expected rate of sexual reconviction for any period from 1 year to 10 years at risk.

*Grounds for thinking this assumption over-estimates risk*

Not all committed sexual offenders fall into the Static-99 high-risk category

*Grounds for thinking this assumption under-estimates risk*

The law under which almost all these patients were committed required a risk of re-offending that is significantly above the level of reconviction implied by the Static-99 high-risk category. The current law requires a risk of re-offending that is comparable to this level of reconviction.

***Assumption 2: Rates of sexual recidivism in Wisconsin will be similar to those observed in other North American samples***

Recidivism data for sexual offenders in the Static-99 high-risk category have been obtained in a number of US States as well as different parts of Canada and the UK.

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<sup>1</sup> Static-99 is a commonly used actuarial risk classification instrument designed for assessing risk of reconviction for sexual offending. It is described in Hanson, R.K. & Thornton, D. (2000). Improving risk assessment for sex offenders: a comparison of three actuarial scales. *Law and Human Behavior*, 24, 119-136.

Broadly similar recidivism rates have been observed. At our request, Hanson<sup>2</sup> has re-analyzed data on over 1,000 offenders, using Survival Analysis to estimate recidivism rates after each year at risk up to a maximum of 10 years.

*Grounds for thinking this assumption over-estimates risk*

Conditions in Wisconsin might lead to lower sexual recidivism than is usually found

*Grounds for thinking this assumption under-estimates risk*

Conditions in Wisconsin might lead to higher sexual recidivism than is usually found

***Estimating the Expected Number of Recidivists***

The table below shows the number of patients detained for different periods of time. This refers to time they would have spent in the community if they had not been detained and then committed under Chapter 980. Column 1 shows possible times detained and column 2 shows the number of detained for each possible period. Thus, for example, 2 patients have had less than 1 year detained. Column 3 shows the expected rate of recidivism for a sexual offender in the Static-99 high-risk category for the indicated time at risk (which is about 16% being expected to recidivate amongst those who were at risk for less than a year). Column 4 shows the actual numbers of recidivist this implies, given the number in each time-detained category. The entry in the bottom right cell (114.9051) is the sum of the rightmost column and indicates the total number expected to recidivate.

This table indicates that about 115 of the 285 patients would be expected to have been reconvicted for a sexual offenses if they had been released back into the community rather than being detained and then committed under chapter 980.

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<sup>2</sup> Hanson provided these survival analyses to SRSTC in February 2003. Karl Hanson is a Senior Research Officer in the Research Branch of the Solicitor General of Canada's Research Branch.

Time (start of year)	detained Number	Expected Rate	Recidivism Implied N
0 up to 1 year	2	0.1569	0.3138
1 up to 2 years	26	0.2295	5.967
2 up to 3 years	22	0.3119	6.8618
3 up to 4 years	20	0.3536	7.072
4 up to 5 years	29	0.3876	11.2404
5 up to 6 years	31	0.4397	13.6307
6 up to 7 years	30	0.4486	13.458
7 up to 8 years	47	0.4486	21.0842
8 up to 9 years	39	0.4486	17.4954
9 up to 10 years	31	0.4486	13.9066
10 up to 11 years	8	0.4844	3.8752
Sum N			114.9051

***Assumption 3: On average, each offender reconvicted will have 1.5 new sexual convictions and 2 sexual charges.***

One offender being reconvicted does not necessarily correspond to just one offense or just one victim. Hanson and Thornton (2003)<sup>3</sup> found that on average for a single sentencing occasion that involved at least one sexual offense there were actually an average of 1.5 separate sexual convictions and an average of 2 charges.

*Grounds for thinking this assumption over-estimates risk*

The average number of charges/convictions per reconviction might be lower in Wisconsin than it was in the samples studied by Hanson & Thornton. There is no obvious reason why this should be so but Hanson and Thornton's analysis related to all sentencing occasions, not just reconvictions.

*Grounds for thinking this assumption under-estimates risk*

The average number of charges/convictions per reconviction might be higher in Wisconsin than it was in the samples studied by Hanson & Thornton. There is no obvious reason why this should be so but Hanson & Thornton's analysis related to all risk levels. Arguable the average number of convictions for each person reconvicted would be higher for high-risk offenders.

***Assumption 4: The average number of officially known victims associated with each offender being reconvicted will be 3.7***

Not all victims known to the police actually result in charges or convictions, equally several convictions may relate to offenses against the same person. Sjostedt et al (in press)<sup>4</sup> surveyed the actual number of officially known victims per recidivist and found this to be 3.7 on average.

<sup>3</sup> Hanson, R. K., & Thornton, D. (2003). Note on the development of Static-2002. User Report 2003-01. Ottawa: Department of the Solicitor General of Canada. [http://www.sgc.gc.ca/corrections/publications\\_e.asp](http://www.sgc.gc.ca/corrections/publications_e.asp)

<sup>4</sup> Sjostedt, G, Langstrom, N, Sturidsson, & Grann, M. (in press). Stability of modus operandi in sexual offending. Criminal Justice and Behavior

*Grounds for thinking this assumption over-estimates risk*

Sjostedt et al's data is from Europe, the average in Wisconsin might be lower though there is no obvious reason why this would be the case.

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***Calculating the Expected Number of Convictions, Charges, and Victims***

Applying assumptions 3 and 4, we estimate that if they had not been subject to the chapter 980 civil commitment process, the 115 patients who we estimate would have been reconvicted for a sexual offense for they had not been detained under chapter 980, would in the process have incurred about 172 separate sexual convictions and about 230 sexual charges. Additionally, about 425 victims would have been identified by the authorities.

These are conservative estimates of further offending since they take no account of undetected offenses. Ahlmeyer et al (2000)<sup>5</sup> report the results of using polygraph assessment to encourage more complete disclosure of past offenses. They found that for a sample where the average number of officially victims was 2, the average number of victims eventually disclosed by the offender was 110. This suggests a ratio of 55 admitted victims for each officially known victim. We cannot simply apply this ratio to the present projection though. Ahlmeyer et al were looking at past victims who could have been perpetrated against at any point in the offenders' lives prior to their current sentence. The average age of their sample was around 37. Assuming that their offending mainly did not occur before the age of 12, this gives them about 25 years of potential offending time (though some of this might have been spent in prison on prior sentences). The chapter 980 patients have so far been typically detained for about a quarter of that time (6-7 years). We have not thought it safe to estimate the amount of undetected offending but it clearly makes even our highest estimates conservative.

These results are displayed below tabulated from the most conservative estimate of further offending to the highest estimate.

Number of Civilly committed patients being considered	285
Expected number sexual reconvicted if at liberty during their time detained	115
Expected number of distinct sexual convictions	172
Expected number of distinct sexual charges	230
Expected number of officially "known" victims	425

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<sup>5</sup> Ahlmeyer, S., Heil, P., McKee, B., & English, K. (2000). The impact of polygraphy on admissions of victims and offenses in adult sexual offenders